

UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES

SIGNMAN, INC.

and

Case 25–CA–28650

LOCAL UNION NO. 481, INTERNATIONAL  
BROTHERHOOD OF ELECTRICAL WORKERS,  
AFL–CIO

*Michael Beck, Esq.*, for the General Counsel.  
*Stanley F. Collesano, Esq.*, and *Jay Jolley, Vice President*,  
of Indianapolis, Indiana, for the Respondent.  
*Neil E. Gath, Esq.*, for the Charging Party.

DECISION

Statement of the Case

JOHN T. CLARK, Administrative Law Judge. This case was tried in Indianapolis, Indiana on August 7, 2003. The charge was filed April 7, 2003,<sup>1</sup> and the complaint was issued June 20. The complaint alleges that Signman, Inc. (the Respondent), violated Section 8(a)(1) and (3) of the National Labor Relations Act by discharging employee Donald B. Lupfer. The Respondent filed a timely answer denying the allegation in the complaint.

After the hearing began, and the formal papers were entered into evidence, the Respondent, through Attorney Collesano and Vice President Jolley, moved to withdraw its answer. The motion was granted, and the General Counsel made an unopposed motion for a decision on the pleadings. The withdrawal of an answer has the same effect as a failure to file an answer, i.e., the allegations in the complaint must be considered to be admitted to be true. See *Biomedical Services*, 338 NLRB No. 87 (2002); *Maislin Transport*, 274 NLRB 529 (1985).

On the entire record, I make the following

Findings of Fact

I. Jurisdiction

The Respondent, a corporation with a principal office and place of business in Indianapolis, Indiana, herein called the Respondent's facility, has been engaged in the business of sign installation, service and repair. During the calendar year ending March 31 Respondent, in conducting its business operations, previously described, provided services valued in excess of \$50,000 to customers located outside the State of Indiana. At all material times the Respondent has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the International Brotherhood of Electrical Workers, AFL–CIO,

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<sup>1</sup> All dates are in 2003 unless otherwise indicated.

and its Local Union No. 481, have been labor organizations within the meaning of Section 2(5) of the Act.

## II. Alleged Unfair Labor Practices

At all material times the following individuals held the positions set forth opposite their names and have been supervisors of the Respondent within the meaning of Section 2(11) of the Act and agents of the Respondent within the meaning of Section 2(13) of the Act:

Jean Jolly	President and Shareholder
Robert Jolly	Vice President and Shareholder
Jay Jolly	Vice President and Manager

About April 4 the Respondent discharged its employee Donald B. Lupfer.

The Respondent engaged in the conduct described above because Donald B. Lupfer declined to terminate his union membership; because Donald B. Lupfer assisted the Union and engaged in concerted activities; and to discourage employees from engaging in these activities.

## Conclusions of Law

1. By the conduct described above, the Respondent has been discriminating in regard to the hire or tenure or terms or conditions of employment of its employees, thereby discouraging membership in a labor organization in violation of Section 8(a)(1) and (3) of the Act.

2. The unfair labor practice of the Respondent described above affects commerce within the meaning of Section 2(6) and (7) of the Act.

## Remedy

Having found that the Respondent has engaged in an unfair labor practice, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act. The Respondent having discriminatorily discharged employee Donald B. Lupfer, it must offer him reinstatement and make him whole for any loss of earnings and other benefits, computed on a quarterly basis from date of discharge to date of proper offer of reinstatement, less any net interim earnings, as prescribed in *F. W. Woolworth Co.*, 90 NLRB 289 (1950), plus interest as computed in *New Horizons for the Retarded*, 283 NLRB 1173 (1987). The Respondent shall also be required to remove from its files all references to the unlawful discharge, and to notify Donald B. Lupfer in writing that this has been done, and that the unlawful conduct will not be used against him in any way.

On these findings of fact and conclusions of law and on the entire record, I issue the following recommended<sup>2</sup>

<sup>2</sup> If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

## ORDER

The Respondent, Signman, Inc., Indianapolis, Indiana, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Discharging or otherwise discriminating against any employee for supporting Local Union No. 481, International Brotherhood of Electrical Workers, AFL-CIO, or any other union.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) Within 14 days from the date of this Order, offer Donald B. Lupfer full reinstatement to his former job or, if that job no longer exists, to a substantially equivalent position, without prejudice to his seniority or any other rights or privileges previously enjoyed.

(b) Make Donald B. Lupfer whole for any loss of earnings and other benefits suffered as a result of the discrimination against him in the manner set forth in the remedy section of the decision.

(c) Within 14 days from the date of this Order, remove from its files any reference to the unlawful discharge, and within 3 days thereafter notify Donald B. Lupfer in writing that this has been done and that the discharge will not be used against him in any way.

(d) Preserve and, within 14 days of a request, or such additional time as the Regional Director may allow for good cause shown, provide at a reasonable place designated by the Board or its agents, all payroll records, social security payment records, timecards, personnel records and reports, and all other records, including an electronic copy of such records if stored in electronic form, necessary to analyze the amount of backpay due under the terms of this Order.

(e) Within 14 days after service by the Region, post at its facility in Indianapolis, Indiana, copies of the attached notice marked "Appendix."<sup>3</sup> Copies of the notice, on forms provided by the Regional Director for Region 25, after being signed by the Respondent's authorized representative, shall be posted by the Respondent immediately upon receipt and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since April 4, 2003.

<sup>3</sup> If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "POSTED BY ORDER OF THE NATIONAL LABOR RELATIONS BOARD" shall read "POSTED PURSUANT TO A JUDGMENT OF THE UNITED STATES COURT OF APPEALS ENFORCING AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD."

(f) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

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Dated, Washington, D.C. August 29, 2003.

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John T. Clark  
Administrative Law Judge

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